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Letter dated 20 April 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 23 February 2005 (S/2005/115). The Counter-Terrorism Committee has received the attached fifth report from Finland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 20 April 2005 from the Permanent Representative of Finland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to the letter from Andrey I. Denisov of 19 January 2005 on behalf of the Counter-Terrorism Committee, I have the pleasure to enclose herewith further information received from the Government of Finland as requested in the letter mentioned above (see enclosure).

(*Signed*) Kirsti **Lintonen**
Ambassador
Permanent Representative

Enclosure*

Fifth report to the Counter-Terrorism Committee of the Security Council in response to the further questions and comments presented in its letter of 19 January 2005

1.1 The last paragraph of Chapter 34(a), Section 5 of the Finnish Penal Code suggests that there may be instances in which the application of the first three paragraphs of that Chapter, concerning the financing of terrorism, could be suspended. The CTC, therefore, would appreciate receiving a clarification concerning the application of those cases, as outlined in the last paragraph of said Section 5. In the explanation, please differentiate between the following cases:

- Where the collection of funds takes place with the intention that they should be used, or in the knowledge that they are to be used to commit a terrorist act, even when such an act was not in fact committed;
- The financing of an act of terrorism was committed;
- The application of the second paragraph of Section 5 together with Section 2;
- The territorial application of the acts outlined and numbered under the first paragraph of Section 5.

Chapter 34 a, section 5 of the Penal Code establishes the financing of terrorism as a criminal offence. Under section 5 paragraph 1, a person who directly or indirectly provides or collects funds with the intention that they should be used or in the knowledge that they are to be used to finance a serious offence mentioned in paragraph 1, subparagraphs 1 to 5, shall be sentenced for the offence in question. Under section 5, paragraph 2, also a person who directly or indirectly provides or collects funds with the intention that they should be used or in the knowledge that they are to be used to finance offences committed with a terrorist intent, as referred to in Chapter 34 a, section 1 of the Penal Code, shall be sentenced for the financing of terrorism. Under Chapter 34 a, section 5 paragraph 3, an attempt to finance terrorism is punishable. Under Chapter 34 a, section 5 of the Penal Code, the financing of terrorism is punishable irrespective of whether the terrorist offence is committed or not.

However, as provided in Chapter 34 a, section 5(4) of the Penal Code, the penal provisions on the financing of terrorism do not apply if an act is punishable as an offence referred to in paragraph 1, subparagraphs 1 to 5 or as an offence provided for in section 1 or 2 of Chapter 34 a, or as an attempt to commit any of such offences, or if it is punishable as complicity in such an offence.

The aforementioned provision of the Penal Code means that the financing of terrorism may, taken as a whole, constitute such an essential part of an offence under section 1 (*offences made with terrorist attempt*) or section 2 (*preparation of an offence to be committed with terrorist intent*) that the financier may be punished as an accomplice. In such a case, pursuant to the provisions section 5, paragraph 4, the financier shall be punished under section 1 or 2 instead of section 5. Thus, acts punishable under section 5 include those that are not so closely connected with the terrorist offence itself or its preparation that the financier could be convicted as an

* Annexes are on file with the Secretariat and are available for consultation.

offender or accomplice in the commission of the aforementioned offences. Insofar as offences referred to in paragraph 1, subparagraphs 1 to 5, of section 5 are concerned, the financier may be sentenced as an accomplice under the penal provisions relating to those offences instead of the provisions criminalising the financing of terrorism. The same applies to cases where a financier's involvement amounts to incitement or aiding and abetting in the accomplishment of the act.

It further follows from the aforementioned provision of Chapter 34 a, section 5(4) of the Penal Code that a person shall not be punished for the financing of terrorism if a more severe sentence may be imposed in application of other provisions of law. Under the Finnish legal system, however, a relatively severe maximum punishment may be imposed for the financing of terrorism. Thus, only rarely will it be possible for a financier of terrorism to be guilty of such other offence for which a more severe sentence could be imposed in application of other provisions of law and which is not one of the offences referred to in section 5(1), subparagraphs 1 to 5.

1.2 The CTC would appreciate receiving a progress report regarding the bill intended to reform the Aliens Act that, according to Finland's latest report, is under consideration by Parliament

The new Aliens Act (301/2004), mentioned in Finland's previous report, entered into force on 1 May 2004.

1.3 The CTC would be grateful to receive a progress report on the enactment of the bill to improve the regulation of the collection of funds by non-profit organisations that, according to the latest report, was scheduled to be submitted to Parliament in 2004.

The Government Bill to amend the provisions of law on the collection of funds was originally scheduled to be submitted to Parliament in 2004. However, certain additional preparations have been made relating to e.g. the organization of the licensing and monitoring authorities. Therefore, the submission of the Government Bill to Parliament has been postponed until June 2005.

1.4 The CTC would appreciate receiving a progress report with regard to the bill scheduled to be submitted to Parliament last spring to implement the amendments adopted by the International Maritime Organisation to Chapters V and XI of the Annex to the 1974 International Convention for the Safety of Life at Sea (SOLAS) as well as the International Ship and Port Facility Security Code (ISPS Code),

In Finland, the amendments to Chapters V and XI of the Annex to the 1974 International Convention for the Safety of Life at Sea (SOLAS) as well as the International Ship and Port Facility Security Code (ISPS Code) have been implemented through the following EU and national legislation which entered into force in their entirety on 1 July 2004:

Regulation (EC) No 725/2004 of the European Parliament and of the Council on enhancing ship and port facility security

Act on the Implementation of the Provisions of a Legislative Nature of the Amendments to the Annex to the 1974 International Convention for the Safety of Life at Sea (484/2004)

Ship and Port Facility Security Act (485/2004)

Act Amending the Register of Ships Act (486/2004)

Act Amending the Frontier Guard Act (487/2004)

Presidential Decree on the Entry into Force of the Act on the Implementation of the Provisions of a Legislative Nature of the Amendments to the Annex to the 1974 International Convention for the Safety of Life at Sea (488/2004)

Government Decree on the Entry into Force of the Ship and Port Facility Security Act (489/2004)

Government Decree on the Entry into Force of the Act Amending the Register of Ships Act (490/2004)

Government Decree on the Entry into Force of the Act Amending the Frontier Guard Act (491/2004)

1.5 With regard to the implementation of the Protocol against the Illicit manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, the CTC would be pleased to receive a progress report on the amendments to the Firearms Act as well as to the related decree, that were to be submitted to Parliament during the 2004 Autumn Session.

The Government Bill to amend the provisions of law on arms offences (HE 113/2004 vp) is under consideration by Parliament. It is proposed in the Bill that the provisions on arms offences shall be placed in a new Chapter 41 of the Penal Code. Consequently, the penal provisions on arms offences that allow a sentence of imprisonment, which are currently included in the Firearms Act (1/1998) and Public Order Act (612/2003), would be placed in the Penal Code. No amendments to the contents of the penal provisions are proposed, nor would the applicable penalties be different.

The aforementioned Government Bill does not propose any provisions of law relating to the implementation of the Firearms Protocol supplementing the UN Convention against Transnational Organized Crime. Finland has signed the Protocol in question but has not ratified it so far. It is observed in the Government Bill that under EU law, part of the provisions of the Firearms Protocol fall in the competence of the European Community while others fall within that of the Member States. Therefore, before the national implementation of the Firearms Protocol, negotiations have to be completed within the framework of the European Union between the Commission and the Member States, concerning the interpretation and implementation of the articles of the Protocol. According to the Government Bill, this may also result in amendments to Council Directive 91/477/EEC on control of the acquisition and possession of weapons.

The amendments to national legislation required by the Firearms Protocol will be made in connection with the domestic implementation of the Protocol. The Government Bill to implement the Protocol and to enact the related provisions of law has already been drafted by the Ministry of the Interior. The implementation does not require amendments to the Firearms Act but the provisions on firearms offences in the Penal Code need to be supplemented. This Government Bill is expected to be submitted to Parliament during the spring of 2005, upon the completion of the aforementioned negotiations with the EU.